

No. 08-6087

Hazelwood v. Tennessee Department of Safety

Hazelwood sued the Department of Safety, Phillips, Laxton and numerous other Department of Safety officials, alleging that she was fired in retaliation for protected speech and association and without sufficient procedural protections. The district court granted summary judgment in favor of the defendants.

II.

In challenging the district court's decision, Hazelwood has filed an appellate brief that largely duplicates her summary judgment brief below—much of it, indeed, is cut and pasted directly from it. Because Hazelwood raised these same arguments in front of the district court, because she failed to elaborate in any meaningful way how the district court erred in resolving these issues and because the arguments at any rate have little to recommend them, we rely in large part on the district court's well-reasoned opinions in rejecting these same arguments here. To those decisions, we add these brief comments.

Hazelwood, first of all, does not challenge the district court's ruling that she “abandoned her substantive and procedural due process claims and punitive damages claims” by failing to defend them in her summary judgment response. JA 662. The closest she comes to addressing this ruling is when she repeats a claim she raised for the first time in her summary judgment response: She argues that she was fired because she stood up for a “close friend[]” who was the subject of an internal-affairs investigation, violating her substantive due process right to intimate association under the 14th Amendment. Appellant's Br. at 16.

If, by copying this argument from her summary judgment response into her appellate brief, Hazelwood means to suggest that the district court erred by failing to address it, she is wrong. Hazelwood did not include this claim in her complaint. There thus was no reason for the defendants to deal with it in their summary judgment motions or for the district court to address the point in its

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opinions. *See Winnett v. Caterpillar, Inc.*, 553 F.3d 1000, 1006–07 (6th Cir. 2009). Nor would it be appropriate for us to address the claim now. As a general matter, our function as an appellate court is to “review the case presented to the district court,” not to consider the merits of claims never properly presented below. *Armstrong v. City of Melvindale*, 432 F.3d 695, 700 (6th Cir. 2006).

Hazelwood does no better when she argues that the district court erred in rejecting her claim that the defendants terminated her in retaliation for her affiliation with the Republican Party. The district court concluded that she “failed to set forth evidence that is sufficient to [show] that Laxton knew or had reason to know of her Republican status.” JA 659. Hazelwood provided almost nothing that could be described as evidence of Laxton’s knowledge: She presented a vague report of a conversation in which people “kidded” her about an undescribed bumper sticker in Laxton’s presence—presumably indicating her support for a Republican candidate, although she never spells that out in her deposition—coupled with the fact that Laxton “didn’t laugh” at these jokes. JA 230. In conclusory fashion, she adds that “everybody at the Highway Patrol knows what everybody else is.” JA 183. The district court cogently explained why such evidence could not convince a reasonable factfinder that Laxton knew of Hazelwood’s political affiliation, *see Hall v. Tollet*, 128 F.3d 418, 425 (6th Cir. 1997), much less acted upon that affiliation in recommending her discharge, and we see no need to repeat it.

III.

For these reasons, we affirm.